

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION (PCT Article 36 and Rule 70)

12 MAY 2005
REPORT

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| Applicant's or agent's file reference Cal 86936 | FOR FURTHER ACTION | | See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416) |
| International application No. PCT/EP 03/12029 | International filing date (day/month/year) 29.10.2003 | Priority date (day/month/year) 24.01.2003 | |
| International Patent Classification (IPC) or both national classification and IPC G02C5/22 | | | |
| Applicant OPTIGEN OPTICAL GROUP S.R.L. et al. | | | |

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 6 sheets, including this cover sheet.
 - This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.
3. This report contains indications relating to the following items:
 - I Basis of the opinion
 - II Priority
 - III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV Lack of unity of invention
 - V Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI Certain documents cited
 - VII Certain defects in the international application
 - VIII Certain observations on the international application

| | |
|--|---|
| Date of submission of the demand 03.08.2004 | Date of completion of this report 12.05.2005 |
| Name and mailing address of the International preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465 | Authorized Officer Berg, S Telephone No. +49 89 2399-2699 |



**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/EP 03/12029

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-7 as originally filed

Claims, Numbers

1-9 as originally filed

Drawings, Sheets

1/4-4/4 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- the language of publication of the international application (under Rule 48.3(b)).
- the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- contained in the international application in written form.
- filed together with the international application in computer readable form.
- furnished subsequently to this Authority in written form.
- furnished subsequently to this Authority in computer readable form.
- The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- the description, pages:
- the claims, Nos.:
- the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/EP 03/12029

5. This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).
(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)
6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | | |
|-------------------------------|------|--------|---------|
| Novelty (N) | Yes: | Claims | |
| | No: | Claims | 1-3,5-9 |
| Inventive step (IS) | Yes: | Claims | |
| | No: | Claims | 1-9 |
| Industrial applicability (IA) | Yes: | Claims | 1-9 |
| | No: | Claims | |

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/EP 03/12029

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Reference is made to the following document/s/:

D1:CA-A 2 321 318

D2:US-A-3 264 678

D3:US-B1-6 217 170

1. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1-3,5-9 is not new in the sense of Article 33(2) PCT.

The document D1 discloses (the references in parentheses applying to this document) the following features. For sake of clarity, each claim in the present application is compared separately. It is evident that all features claimed have been shown by the prior art.

Claim 1.

In a spectacle frame, the lens supporting structure 3-0 comprise two magnetic elements 3-3, that are arranged such that they engage with second magnetic elements 4-1 in the temples 4-0, allowing relative movement between the frame and the structure.

Claim 2

The magnetic elements overlap each other (in one direction at least).

Claim 3

The magnetic element 3-3 is held on a perimetric portion (see fig. 3) with a lateral extension of the structure 3-2.

Claim 5

The shape of the magnetic element 4-1 is cylindrical (page 2 of description), and engages slidingly with the complementary shape of magnetic element 3-3.

Claim 6

Seen from above the magnetic elements are side by side.

Claim 7

The magnetic element 4-1 has a circular perimetric portion and the magnetic element 3-3 has a corresponding, complementary perimetric seat.

Claim 8

The structure of D1 is provided with laterally arranged magnetic elements 3-3, engaging with magnetic elements 4-1, that are integral with the temples.

Claim 9

The temple of D1 has a magnetic element, designed to be complementary and to engage with a magnetic element 3-3.

Regarding claim 4

The document D2 discloses (the references in parentheses applying to this document) the following features:

In a spectacle frame, the lens supporting structure comprises magnetic elements (pins 40), that are arranged such that they engage with second magnetic elements 42 in the temples, allowing relative movement between the frame and the structure. Further, the frame shows that the magnetic elements 40/42 overlap in a vertical sense, such that they together define an axis of rotation, whereby the one magnetic element 40 is pin shaped and magnetically fits to a complementary seat, i.e. the upper end of lower pin 42, whereby seat is interpreted in its broad, general sense.

2. It would appear, that the present application does not meet the criteria of Article 33(1) PCT, even if the claims are redrafted, because the subject-matter of the claims does not involve an inventive step in the sense of Article 33(3) PCT.

In the description, there are some features regarding the disk shaped magnetic elements, that are stacked ontop of each other (such as in document D3), but carrying an integrated pin and an integrated seat to define an axis of rotation.

These features are not explicitly mentioned in this combination in the present claims.

However, it should be noted that the objective problem to be solved by such an arrangement concerns the need for a well defined point of rotation for the user.

The conventional knowledge of a pin and its seat would be applied without an inventive step.

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International application No. PCT/EP 03/12029